

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0083P**

**USE TAX**

**Calendar Years 1996, 1997, and 1998**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer, incorporated under the laws of Arkansas, was audited for calendar years 1996, 1997, and 1998. Upon audit it was discovered that the taxpayer filed "zero" ST103 returns although it had taxable purchases.

Upon audit it was discovered that the taxpayer failed to pay sales or use tax on items it used in its business such as a trash compactor, overhead doors, data max, cleaning and packaging supplies, and other general expenses. Taxpayer had no use tax accrual system in place.

In a letter dated January 25, 2000, taxpayer protested penalties assessed and states it did not understand Indiana laws on the use tax issue. It has locations in seven states and Indiana is the only state which charges use tax on items that actually become part of the final product.

**I. Tax Administration – Penalty**

### **DISCUSSION**

Taxpayer was assessed a negligence penalty for all years of the audit because it failed report taxable purchases subject to use tax. Taxpayer filed “zero” on its ST-103 returns and remitted no sales or use tax.

Taxpayer requests the penalties be abated because it did not understand Indiana laws on the use tax issue. It will strive to follow the correct procedures in the future.

Taxpayer did not provide reasonable cause for failing to pay tax to Indiana. When doing business in this state, a taxpayer should make itself aware of the tax laws. Taxpayer failed to do so which is considered negligent.

### **FINDING**

Taxpayer’s protest is denied.